

**UNITED STATES GOVERNMENT  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
REGION 26**

**ARAMARK UNIFORM SERVICES AND  
CAREER APPAREL<sup>1</sup>**

**Employer**

**and**

**Case 26-RC-8157**

**UNION OF NEEDLE TRADE, INDUSTRIAL  
AND TEXTILE EMPLOYEES (UNITE)**

**Petitioner**

**DECISION AND DIRECTION OF ELECTION**

Upon a petition duly filed under Section 9(c) of the National Labor Relations Act, as amended, herein referred to as the Act, a hearing was held before a hearing officer of the National Labor Relations Board, herein referred to as the Board.

Pursuant to the provisions of Section 3(b) of the Act, the Board has delegated its authority in this proceeding to the undersigned.

Upon the entire record in this proceeding,<sup>2</sup> the undersigned finds:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are hereby affirmed.<sup>3</sup>
2. The Employer is engaged in commerce within the meaning of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.<sup>4</sup>
3. The labor organization involved claims to represent certain employees of the Employer.

4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:<sup>5</sup>

**INCLUDED:** All production and maintenance employees, including lead persons, employed by the Employer at its Pine Bluff, Arkansas facility.

**EXCLUDED:** All other employees, including office clerical employees, professional employees, route service representatives, utility drivers, shuttle drivers, guards, and supervisors as defined in the Act.

#### **DIRECTION OF ELECTION**

An election by secret ballot shall be conducted by the undersigned among the employees in the unit found appropriate at the time and place set forth in the Notice of Election to issue subsequently, subject to the Board's Rules and Regulations. Eligible to vote are those in the unit who are employed during the payroll period ending immediately preceding the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Also eligible are employees engaged in an economic strike which commenced less than 12 months before the election date and who retained the status as such during the eligibility period and their replacements. Those in the military services of the United States Government may vote if they appear in person at the polls. Ineligible to vote are employees who have quit or been discharged for cause since the designated payroll period, employees engaged in a strike who have been discharged for cause since the commencement thereof and who have not been rehired or reinstated before the election date, and employees engaged in an economic strike which commenced

more than 12 months before the election date and who have been permanently replaced. Those eligible shall vote whether or not they desire to be represented for collective bargaining purposes by the Union of Needle Trade, Industrial and Textile Employees (UNITE) or Textile Processors, Service Trades, Health Care, Professional and Technical Employees, Local 218.<sup>6</sup>

### **LIST OF VOTERS**

To ensure that all eligible voters have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses that may be used to communicate with them. *Excelsior Underwear*, 156 NLRB 1236 (1966); *NLRB v. Wyman-Gordon Co.*, 394 U. S. 759 (1969). Accordingly, it is directed that an eligibility list containing the **full** names and addresses of all the eligible voters must be filed by the Employer with the Regional Director within 7 days of the date of this Decision. The Regional Director shall make the list available to all parties to the election. No extension of time to file the list shall be granted by the Regional Director except in extraordinary circumstances. Failure to comply with this requirement shall be grounds for setting aside the election whenever proper objections are filed. *North Macon Health Care Facility*, 315 NLRB 359 (1994). In order to be timely filed, such list must be received in the Memphis Regional Office (Region 26), 1407 Union Avenue, Suite 800, Memphis, TN 38104, on or before **April 7, 2000**.

### **RIGHT TO REQUEST REVIEW**

Under the provision of Section 102.67 of the Board's Rules and Regulations, a Request for Review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, DC 20570-0001. This request must be received by the Board in Washington by **April 14, 2000**.

**DATED** March 31, 2000, at Memphis, TN.

/s/

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Thomas H. Smith, Acting Regional Director  
Region 26, National Labor Relations Board  
1407 Union Avenue, Suite 800  
Memphis, TN 38104-3627  
tel: 901-544-0018

1/ The correct name of the Employer is Aramark Uniform Services and Career Apparel.

2/ The Employer and Petitioner filed timely briefs which have been duly considered.

3/ The Intervenor was not present at the hearing and thus all stipulations were entered into and received without the Intervenor's participation. The Hearing Officer correctly found that the Intervenor's failure to appear at the hearing was not an impediment to the approval of stipulations herein between the Employer and Petitioner.

4/ The Employer and Petitioner stipulated the Employer is a Delaware corporation with a place of business in Pine Bluff, AR where it is engaged in industrial laundry of uniforms and related apparel. During the past 12 months, a representative period, the Employer purchased and received at its Pine Bluff, AR facility goods valued in excess of \$50,000 directly from outside the State of Arkansas and during the same representative period, the Employer provided services and shipped products valued in excess of \$50,000 directly from its Pine Bluff, AR facility to customers located outside the State of Arkansas.

5/ The Petitioner and Intervenor seek to represent all production and maintenance employees employed by the Employer at its Pine Bluff, AR facility excluding all office clericals, plant clericals, technical employees, professional employees, salespersons, guards and supervisors as defined by the Act. The Employer seeks the inclusion of the following employees in the above-described unit: route service representatives (RSRs), utility drivers, shuttle drivers, clerical employees, RSRs at its Monroe, LA and Greenville, MS depots and leadpersons. Petitioner would exclude all of these classifications.

The Employer and Petitioner stipulated the following individuals exercised supervisory authority and are supervisors within the meaning of Section 2 (11) of the Act:

Joel Bachochin	General manager
Bruce Huish	Assistant general manager
Donna Rawsom	Controller
Steve Hazelwood	Plant manager
Keith McDaniels	Production manager
John Doucet	District manager
Myron Rhodes	District manager
Keith Austin	District manager – Monroe
Joe Wilson	District manager – Greenville
Scott Brecht	District manager trainee
David Sorrell	District manager trainee
Dewey Holland	Plant engineer
Sharon Nutt	Merchandise control manager

Connie Massanelli

Office manager

Additionally, the Employer and Petitioner stipulated the following individuals were office clerical employees and as such should be excluded from the unit: Diana Stewart, administrative assistant; Tracy Burks, receptionist; Peggy Helms, payroll clerk; and Barbara Brown, accounts payable clerk.

The Employer employs seven leadpersons: Jean Stivers, Beatrice (Bea) Tate- Lee, Kenny Grant, Robert Wilder, Debra Johnson, Sandy Jeffers and Jane Jones. All of the leadpersons report to plant manager Steve Hazelwood, except Jeffers and Jones who report to Sharon Nutt, merchandise control manager. According to the record testimony, the leadpersons do not have the authority to hire, fire or evaluate employees or effectively recommend such actions. The only example of discipline Petitioner offered concerned one occasion when leadperson Bea Lee told employees they were talking too much. Even on that occasion, Lee did not threaten disciplinary action if the employees failed to cease talking. Thus, I do not conclude this statement equates to discipline. Therefore, I find the leadpersons do not have the authority to discipline or effectively recommend discipline. The leadpersons routinely move employees from one work location to another within their department. The record testimony establishes that these transfers are based upon the necessity to meet the workload. Thus, I find they do not involve independent judgment. The leadpersons do not have the authority to approve days off, to approve an employee leaving work early or to assign overtime. On some occasions, employees have contacted their leadperson to notify them of their absence but the leadperson did not approve said absence, rather the leadperson merely received the information. Although on some occasions leadpersons have told employees to work overtime, the record evidence establishes the leadpersons were merely acting as a conduit and Hazelwood determined the necessity for overtime. The record testimony demonstrates the leadpersons spend about 95 percent of their time doing manual labor in the same manner as other production and maintenance employees. The leadpersons punch a timeclock in the same manner as production and maintenance employees and are hourly paid. The leadpersons are the highest paid employees in their department receiving about an additional \$1 an hour. The leadpersons wear different color shirts than the production and maintenance employees and the office clerical employees.

Based upon the record testimony and the above findings, I find the leadpersons are not supervisors within the meaning of Section 2 (11) of the Act. See **J. C. Brock Corp.**, 314 NLRB 157, 158 (1994), wherein the Board found line coordinators not to be statutory supervisors because the level of authority exercised by them did not involve the use of independent judgment.

There are 18 RSRs operating from the Pine Bluff, AR facility. The basic duties of these employees are to pick up and deliver uniforms and related products from and to customers, to load and unload uniforms and related products at the facility, to make sure the uniforms and related products being delivered are correct and to solicit new business from existing customers or new customers. The work day for the RSRs begins at about 5:30 a.m. when they

leave their homes in their company vehicles to deliver the uniforms and related products. They work about 11 hours per day with the last three hours, approximately 1:30 p.m. to 4:30 p.m., being at the Pine Bluff facility. Until their arrival at the Pine Bluff facility, the RSRs do not have any interaction with production and maintenance (P & M) employees; rather, they are interacting with their customers on their routes. The RSRs are paid on a commission basis and earn up to \$800 per week. They do not punch a timeclock. Additionally, RSRs are eligible for bonuses, specifically paid vacation trips. They receive the same fringe benefits, such as vacation, 401(k), and health insurance as P & M employees. Their supervisors are district managers. The RSRs are not required to have a CDL license or any type of special driver's license.

When the RSRs return to the Pine Bluff facility in the afternoon around 1 p.m. to 2 p.m., they unload their trucks of the dirty uniforms and related products, such as towels. On an occasional basis, soil auditors assist the RSRs in unloading their trucks. The soiled products are taken to the soil auditor, who counts the number of products. Occasionally, RSRs will assist in the count. If the RSRs' loads include any flame retardant products, which occurs approximately once or twice a week, the RSRs take those products directly to the washing machine for flame retardant products. After unloading their products, the RSRs begin to load their products for the next day's work. These products are located on rails near the dock where they parked their vehicles. Occasionally, a route puller will assist in unloading of products. If all the necessary products are not on the rails, the RSRs must locate those products. If any of the clothes need to be repressed or mended, the RSRs take the clothes to the appropriate departments for re-work. According to employees in the press and mending departments, RSRs bring clothes to them approximately 3 to 4 times a week to be re-worked. The RSRs do not wait while the clothes are being repressed or mended, rather they leave the area and products are returned to the loading area via the conveyor system. If the RSRs' load does not have enough towels, occasionally the RSRs will fold towels in order to complete their load. If an RSR needs to exchange sizes of clothes or receive loaner or additional clothes due to shortage, then they go to the stock room and order the necessary clothes. The stock room employees retrieve the necessary clothes and take them to the dock. RSRs only interact with maintenance employees on special occasions, such as when welding on a rail in the delivery truck is needed.

The petitioned-for P & M employees are the employees who work in the following non-air-conditioned areas of the plant: stock room, soil audit, wash floor, dryers, finishing, press, sort, matching, mending, folding and load building. These employees are hourly paid and punch a time clock. They earn about \$300 to \$350 a week and are not eligible for bonuses. The P & M employees work from about 6 a.m. to 2:00 p.m. The plant manager supervises them. Production employees do not visit customer locations. On a rare occasion, maintenance employees will go to customer locations if something needs to be built for the Employer's products. Also on an occasional basis, a production employee will make a delivery to the depot in Monroe or Greenville. Two production employees have been promoted to RSRs.

It is well established that the petitioned-for bargaining unit need only be an appropriate unit, rather than the appropriate unit. See **Lundy Packing Co.**, 314 NLRB 1042, 1043 (1994). The following factors are reviewed to determine what is an appropriate unit: method of compensation, pay, hours of work, fringe benefits, supervision, job skills and functions, location of work – at plant or away from plant, frequency of contact between employees and integration of work. See **Kalamazoo Paper Box Co.**, 136 NLRB 134, 137 (1962).

A review of the factors herein demonstrates a lack of community of interest between the P & M employees and the RSRs. Specifically, the P & M employees are hourly paid and average about \$300 to \$350 per week while the RSRs are salaried employees who earn up to \$800 per week. The P & M employees' work schedule is approximately 6 a.m. until 2:30 p.m. while the RSRs work from 5:30 a.m. until 4:30 p.m. The only hours where the RSRs are at the Pine Bluff facility are between 1:30 p.m. and 4:30 p.m.; thus there is only approximately one hour when their work schedules overlap. The P & M employees and RSRs have separate supervision. Their job skills and functions are different, specifically the P & M employees wash the clothes and prepare them for delivery while the RSRs deliver the clothes and related items, work with existing customers for more business, solicit new customers for business and return the soiled clothes to the facility for wash and preparation for the next day. Although the above demonstrates that the work of the P & M employees and the RSRs is integrated, the record reflects little interaction between the two groups of employees.

Overall, the record testimony establishes the petitioned-for unit is an appropriate one without the inclusion of the RSRs. See **Gunzenhauser Bakery, Inc.** 137 NLRB 1613 (1962), where the Board found driver-salesmen should be excluded from the petitioned-for unit. The cases cited by the Employer are inopposite to the case at bar. Specifically, in **J. C. Penney Company**, 328 NLRB No. 105 (1999), the record evidence established the telemarketers had a community of interest with the petitioned-for unit employees at the catalog center because they shared common wages, common supervision, performed similar job functions with similar skills, worked at the same location and had substantial interaction with each other. In **Seaboard Marine, Ltd.**, 327 NLRB No. 108 (1999), the Board found the petitioned-for unit of clerks and other employees had a community of interest for essentially the same reasons as cited above in **J. C. Penney**. In **Hotel Services Group, Inc.**, 328 NLRB No. 30 (1999), the licensed massage therapists were found not to be an appropriate unit, rather all licensed personnel were an appropriate unit. In that case, all licensed personnel were paid similarly, not differently as stated by the Employer in its brief.

The Employer also seeks the inclusion of the 7 RSRs at each of the Monroe and Greenville depots. Monroe, LA, and Greenville, MS, are approximately 90 and 60 miles respectively from Pine Bluff. Since I have found that the petitioned-for unit is an appropriate one without the RSRs at Pine Bluff, I also find that the petitioned-for unit is an appropriate one without the inclusion of the RSRs domiciled in and around Monroe and Greenville.



Four Pine Bluff utility drivers assist the RSRs on their routes and also substitute for the RSRs when they are on vacation. The utility drivers are hourly paid and, like the RSRs, are supervised by a district manager. The utility drivers are similar to the RSRs in all respects, except for the manner of pay. Therefore, I find the petitioned-for bargaining unit to be an appropriate one without the inclusion of utility drivers for the same reasons as stated above regarding the RSRs.

The Employer employs two shuttle drivers who transport uniforms and related items to and from the depots in Greenville and Monroe. Each drives an 18-wheel tractor-trailer and is required to possess a CDL license. The only contact these drivers have with P & M employees is an occasional phone call to the stock room. The record is devoid of any other information concerning these two employees. The Employer has failed to provide evidence that the shuttle drivers have a community of interest with the production and maintenance employees; thus, I find the petitioned-for bargaining unit to be an appropriate unit without the inclusion of the shuttle drivers. In so finding, I note these drivers appear to be akin to over-the-road drivers, which the Board has repeatedly found not to have a community of interest with P & M employees. **Comet Corporation**, 261 NLRB 1414, 1438 (1982).

The Employer also seeks the inclusion of the following clerical employees: fleet administrator, accounts receivable clerks, print clerk, route auditors and customer service employees. All of these employees work in the air-conditioned office at the Employer's facility and wear different uniforms than the production and maintenance employees. The fleet administrator, Richard Arledge, is in charge of the upkeep of the delivery vehicles utilized by the RSRs. Thus, he interacts with the RSRs but not the petitioned-for P & M employees. The three account receivable clerks, Carolyn Brown, Sandy Crowder and Carol Wilder, are in charge of bill collections and have some contact with the RSRs. The three route auditors are in charge of checking payloads, including paperwork filled out by the RSRs. The office manager supervises both the account receivable clerks and the route auditors. The print clerk is in charge of entering data and printing documents for the office as well as for the load builders. The controller supervises the print clerk. The two customer service representatives are in charge of communications with customers and some interaction with the RSRs. The Employer failed to produce any evidence that these employees have even minimal contact with the production and maintenance employees.

Based upon the record testimony, I find these employees to be office clericals who do not have a community of interest with the P & M employees. I rely specifically upon the following factors: no interaction with the P & M employees, different supervision, different job skills and functions and different work location at the facility. See **Weldun International**, 321 NLRB 733, 734-5 (1996); **Hygeia Coca-Cola Bottling Co.**, 192 NLRB 1127 (1971). The Employer's assertion that the employees are plant clericals who assist in the functional integration of the work is unsupported by the record.

Overall, there are approximately 67 employees in the bargaining unit.

6/ In accordance with Section 102.67 of the Board's Rules and Regulations, as amended, all parties are specifically advised that the Regional Director will conduct the election when scheduled, even if a Request for Review is filed, unless the Board expressly directs otherwise.

#### CLASSIFICATION INDEX

440-1760-0580

177-8560-0100